

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

RALPH ANDERSON §  
v. § CIVIL ACTION NO. 6:07cv302  
DIRECTOR, TDCJ-CID §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE

The Petitioner Ralph Anderson, proceeding *pro se*, filed this application for the writ of habeas corpus complaining of the legality of his confinement. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Anderson complained of the failure to restore his “street time” after the revocation of parole. The Magistrate Judge reviewed his pleadings and determined that because Anderson had been convicted of robbery, he was not eligible for restoration of his street time. *See* Tex. Gov. Code art. 508.283(b) (denying restoration of street time to persons convicted of certain offenses); Tex. Gov. Code art. 508.149(a)(11) (denoting robbery as one of those offenses for which the restoration of street time may be denied). Although Anderson tried to evade this statute by conflating 508.149(a)(1) and (a)(11), arguing that only persons convicted of robbery who also had an affirmative finding of use of a deadly weapon could have restoration of street time denied, the Magistrate Judge rejected this argument, concluding that the statute contained no requirement that the affirmative finding of a deadly weapon listed in section (a)(1) be attached to any of the other sub-parts of the statute. The Magistrate Judge thus determined that Anderson had no liberty interest in the restoration of his street time and so his petition was without merit.

A copy of the Magistrate Judge's Report was sent to Anderson at his last known address, return receipt requested, but no objections have been received; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has examined the Report of the Magistrate Judge and the pleadings in the cause, and has concluded that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled application for the writ of habeas corpus be and hereby is DISMISSED with prejudice. It is further

ORDERED that the Petitioner Ralph Anderson is hereby DENIED a certificate of appealability *sua sponte*. Finally, it is

ORDERED that any and all other motions which may be pending in this cause are hereby DENIED.

**So ORDERED and SIGNED this 5th day of September, 2007.**

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS  
UNITED STATES DISTRICT JUDGE**